IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 14532 of 2006

DATED: 6.11.2006

Between:

G.M.Rao
petitioner

And
The Depot manager,
APSRTC, Mancherial, Adilabad dist
Respondent

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 14532 OF 2005

ORAL ORDER:

The present writ petition is filed questioning the action of the respondent in not paying the gratuity amount to the petitioner for the out of employment period i.e., from the date of suspension till the date of reinstatement.

2. The petitioner herein retired on 30.6.2004 from the services of the respondent corporation as Conductor. The petitioner while working as conductor removed from service by proceedings dated 21.12.1981 for cash and ticket irregularities. The petitioner herein having failed before the Labour Court, filed W.P. No. 19421 of 1987 and the same was disposed of by order dated 29.11.1989 confirming the removal order. Aggrieved by the said order, the petitioner filed an appeal in W.A. 1363 of 1991. A division Bench of this Court by order dated 13.9.1996 allowed the appeal ordering reinstatement without backwages, subject to following conditions;

1. That the period from the date of the imposition of punishment by the corporation upto this day shall be treated as period of suspension with out pay;
2. the appellant shall be reinstated forthwith but without backwages;
3. on retirement from service he shall be entitled to terminal benefits calculated on the basis of the last pay drawn and the status which he shall have at the time of the retirement;
4. the corporation shall be free to impose any punishment upon the appellant if he is found to repeat the misconduct or indulge in any other

misconduct."

2. Learned counsel for petitioner contends that in terms of the judgment in W.A. No. 1363 of 1991, the petitioner was reinstated into service with continuity of service and without backwages, as such he is entitled to payment of gratuity for the out of employment period also.

3. A counter affidavit was filed on behalf of the respondent stating that in terms of the orders in W.A. No.1363 of 1991 dated 13.9.1996 the petitioner is entitled to reinstatement into service without backwages and in terms of the said orders, the petitioner's gratuity was calculated and after pre-audit payment was arranged to the petitioner.

4. The Division Bench of this Court by order dated 13.9.1996 while ordering reinstatement, held that the period from the date of the imposition of the punishment by the corporation up to this day shall be treated as period of suspension without pay. The same cannot be treated as if there is any break in service and the petitioner is not entitled to gratuity.

5. Accordingly, the writ petition is disposed of directing the respondents to settle the gratuity amount payable to the petitioner taking into account the period of suspension as continuity of service. No costs.

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N.V.RAMANA,J

DATE: 6.11.2006

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THE HON'BLE MR JUSTICE N.V. RAMANA

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